Registered No. M. 4631.

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. V] Trivandrum, Monday, 11th July 1960 / 20th Asadha 1882 [No. 58

CONTENTS

Report of the Select Committee on the Kerala Government Land Assignment Bill, 1960 and the Bill as reported by the Committee.

Printed and Published by the S.G.P. at the Government Press, Trivandrum, 1960.

THE KERALA GOVERNMENT LAND ASSIGNMENT BILL, 1960.

Report of the Select Committee.

The Select Committee to which the Kerala Government Land Assignment Bill, 1960 was referred, have considered the Bill clause by clause and now submit this, their report, with the Bill as amended by the Committee annexed thereto.

2. The Bill was published in the Gazette Extraordinary dated the 15th June 1960.

3. The Bill was introduced in the Legislative Assembly on the 22nd June 1960 and the motion for reference of the Bill to a Select Committee was adopted on the same date.

4. The Committee met on the 7th July 1960. The changes proposed by the Committee and the reasons therefor are set out in the following paragraphs.

5. *Clause 4.*—This clause lays down the procedure to be followed in assigning Government lands. Though clause 3 provides that land may be assigned either by the Government or by the prescribed authority, the procedure laid down in clause 4 is apparently intended to apply only to cases where the land is proposed to be assigned by the prescribed authority as may be seen from clause 5. It is considered that this position may be made clear in clause 4 also by inserting the words "by the prescribed authority" after "when any Government land is proposed to be assigned" occurring in sub-clause (1). The clause has been modified accordingly.

6. *Clause 7.*—sub-clause (3). The Committee feel that the period of seven days provided in this sub-clause for the laying of the rules before the Legislative Assembly is not sufficient. They have therefore substituted "fourteen days" for "seven days."

7. *Clause 8.*—Clause (i) of the Explanation to this clause provides that the expression "Government land" in this clause shall include lands belonging to or owned by the Government of India or the Government of any State in India. Such a provision was necessary in view of the proposal to repeal the Government Grants Act, 1895, which contains a provision similar to that in clause 8 which is applicable to grants or transfers of land by Central Government also. The Committee consider that the Government Grants Act, 1895, may be repealed only in so far as it relates to grants or transfers of land by the Government of Kerala and that clause (i) of the Explanation may be omitted. Clause (i) has accordingly been omitted.

8. *Clause 9.*—(i) Sub-clause (2). The change made in this sub clause is conseqential to the change made in clause 8.

(ii) Sub-clause (3). This sub-clause as it now stands provides only for the continuance of the rules and orders issued under the Travancore-Cochin Government Land Assignment Act, 1950. The Committee consider that provision should be made for the continuance of the rules and orders which are in force in the Malabar area of the State immediately before the commencement of the Act, also. Necessary modification for this purpose has therefore been made by the Committee in this sub-clause.

9. The other changes made by the Committee are only verbal.

K. CHANDRASEKHARAN,
Chairman of the Select Committee.

THE KERALA GOVERNMENT LAND ASSIGNMENT BILL, 1960

(As reported by the Select Committee.)

[Words underlined indicate the amendments suggested by the Committee ; omissions are indicated by asterisks.]

A

BILL

to provide for the assignment of Government lands.

Preamble.—WHEREAS it is expedient to regulate the assignment of Government lands and to remove doubts as to the validity of the limitations and restrictions imposed in assignments of land by the Government or under their authority ;

BE it enacted in the Eleventh Year of the Republic of India as follows : —

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Government Land Assignment Act, 1960.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force at once.

2. *Definitions.*—(1) The following, that is to say :—

(i) all public roads, streets, lanes and paths, the bridges, ditches, dykes and fences on or beside the same ;

(ii) the bed of the sea and of harbours and creeks below high water-mark, the beds and banks of rivers, streams, irrigation and drainage channels ;

(iii) all canals, tanks, lakes, back-waters and water-courses ;

(iv) all land wherever situated,

save in so far as the same are the property of—

(a) jenmis or holders of Inams ; or

(b) holders of land in anyway subject to the payment of land revenue to the Government ; or

(c) any other registered holder of land in proprietary right ; or

(d) any person holding land under grant from the Government otherwise than by way of lease or licence ; or

(e) any person claiming through or holding under any of the persons referred to in clause (a), (b), (c), or (d),

are, and are hereby declared to be, Government lands except as may be otherwise provided by any law for the time being in force, subject to all rights of way and other public rights and to the natural and easement rights of other land owners and to all customary rights legally subsisting.

Explanation I.—Lands registered in the name of a person but subsequently abandoned or relinquished and all lands held by right of escheat, purchase, resumption, reversion or acquisition under the land Acquisition Act for the time being in force are Government lands within the meaning of this sub-section.

Explanation II.—In this sub-section, the expression "high-water mark" means the highest point reached by the ordinary spring-tide at any season of the year.

(2) In this Act, unless the context otherwise requires,—

(a) "assignment" includes a transfer of land by way of lease and a grant of licence for the use of land;

(b) "assignee" includes his heirs;

(c) "prescribed" means prescribed by rules made under this Act.

3. *Assignment of Government land.*—Government land may be assigned by the Government or by any prescribed authority either absolutely or subject to such restrictions, limitations and conditions as may be prescribed.

Explanation.—Any restriction as to alienation, whether voluntary or otherwise, of the rights of the assignee, shall be a restriction within the meaning of this section.

4. *Procedure to be followed before Government lands are assigned.*—(1) When any Government land is proposed to be assigned by the prescribed authority, otherwise than by way of lease or licence, the Tahsildar of the taluk in which the land is situate or any officer empowered by the Government in this behalf shall notify in the prescribed manner that such land will, by public auction or otherwise, be assigned, and call upon those who have got any claim to such land to prefer to him their objections, if any, in writing, within a time which shall be specified in such notification.

(2) If any objection is preferred within the time specified in the notification, the Tahsildar or such other officer shall enquire into the same and pass an order in writing either accepting or rejecting the claim in full or in part and intimate in writing the fact of such disposal to the claimant.

(3) For the purposes of the enquiry under sub-section (2), the officer making the enquiry shall have all the powers conferred upon the Collectors and Tahsildars by the law for the time being in force regarding summoning of persons for disposal of matters connected with the revenue administration.

5. *Order of assignment.*—(a) When the time fixed in the notification under sub-section (1) of section 4 has elapsed and no objection has been preferred; or

(b) when any objection preferred is rejected and—

(i) the time for preferring an appeal from the order has elapsed and no appeal has been preferred; or

(ii) when an appeal has been preferred and the appeal is rejected by the appellate authority,

the land may, subject to such rules as may be made by the Government in this behalf, be assigned by the prescribed authority.

6. *Bar of suits.*—No suit against the Government shall be entertained in any civil court in respect of any order passed under this Act except upon the ground that—

(a) the order is in breach of any completed agreement to assign, or

(b) the land in respect of which such order has been passed is not Government land:

Provided that any such suit by a person who was a party or privy to and had due notice of the proceeding under this Act shall be instituted within two years from the date of service of the notice of such order.

7. *Power to make rules.*—(1) The Government may make rules—

(a) prescribing the manner in which assignment of land may be made, whether by public auction or otherwise;

(b) prescribing the qualifications of persons to whom assignment of lands may be made;

(c) prescribing the order of priority for the assignment of land, whether by public auction or otherwise;

(d) prescribing the authority by which such assignment may be made;

(e) prescribing the procedure to be followed in assigning the land;

(f) providing for the publication of notifications and service of notices;

(g) prescribing the procedure to be followed in the enquiry regarding claims preferred;

(h) prescribing the rates at which land may be assigned and tree-growths may be valued; and the mode of recovery of the amounts due;

(i) providing for the protection of royalties on the land assigned;

(j) prescribing the restrictions, limitations and conditions subject to which an assignment can be made in any case or class of cases;

(k) providing for appeals from the orders of any authority competent to assign any land;

(l) prescribing the time within which appeals may be preferred;

(m) regulating the powers of the appellate authority and the procedure to be followed by such authority;

(n) providing for revision by the Board of Revenue of any order passed by the prescribed authority, and prescribing the time within which such revisional power may be exercised;

(o) regulating the issue of Pattah or other title deed evidencing the assignment;

(p) prescribing forms where forms are necessary, and

(q) generally for carrying out the purposes of this Act.

(2) All rules made under this Act shall be published in the Gazette and thereupon they shall have the force of law.

(3) All rules made under this Act shall be laid for not less than fourteen days before the Legislative Assembly as soon as possible after they are made, and shall be subject to such modifications as the Legislative Assembly may make during the session in which they are so laid or the session immediately following.

8. *Assignment to take effect with restrictions, conditions, etc., according to their tenor.*—All the provisions, restrictions, conditions and limitations contained in any Pattah or other document evidencing the assignment of Government land or of any interest therein shall be valid and take effect according to their tenor, notwithstanding any law for the time being in force or any custom or contract to the contrary.

Explanation.—In this section, the expression "Government land" shall include * * *

* * * * *

* * * * *

land under the control or management of the Government at the time of the assignment.

9. *Repeals.*—(1) The Travancore-Cochin Government Land Assignment Act, 1950 (XXXIII of 1950), is hereby repealed.

(2) The Government Grants Act, 1895 (Central Act 15 of 1895), in so far as it relates to any grant or other transfer of land or of any interest therein by or on behalf of the Government of Kerala, shall cease to apply to the Malabar district referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956 (Central Act 37 of 1956).

(3) All rules and orders made or deemed to have been made under the Travancore-Cochin Government Land Assignment Act, 1950, hereby repealed, and all rules and orders in force immediately before the commencement of this Act relating to the assignment of Government lands in the Malabar district referred to in sub section (2) of section 5 of the States Reorganisation Act, 1956 (Central Act 37 of 1956), so far as they are not inconsistent with this Act, shall be deemed to have been made under the corresponding provisions of this Act, and shall continue to be in force accordingly unless and until superseded by anything done or any action taken under this Act.

D. TIRUMALAI,
Secretary,
Legislative Assembly.

REGISTERED No. M. 4631.

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. V] Trivandrum, Monday, 11th July 1960 / 20th Asadha 1882 [No. 59.

NOTIFICATION

No. 2234|LA.4|60. *11th July 1960.*

The following Bill together with the Statement of Objects and Reasons and the Financial Memorandum attached to it, is published, as ordered by the Speaker under Rule 73 of the Rules of Procedure and Conduct of Business in the Assembly.

Legislature Secretariat,
Trivandrum.

D. TIRUMALAI IYENGAR,
Secretary.
Legislative Assembly.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1960.

L. A. Bill No. 27 of 1960.

THE KERALA ENQUIRIES AND SUMMONSES BILL, 1960

A

BILL

to make provisions to facilitate enquiries into certain matters and to empower certain officers to issue summonses for the attendance of persons or the production of documents in enquiries.

Preamble.—WHEREAS it is expedient to make provisions to facilitate enquiries into any matter connected with the administration of revenue or any other matter of public interest and into the conduct of public servants and to empower certain officers to issue summonses for the attendance of persons or the production of documents in enquiries which they are authorised to hold;

BE it enacted in the Eleventh Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Enquiries and Summonses Act, 1960.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force at once.

2. *Revenue Officers empowered to summon persons to appear or to produce any document before them.*—The Members of the Board of Revenue, the Collectors, Deputy Collectors, Revenue Divisional Officers, Tahsildars and Deputy Tahsildars shall have power to summon any person whose evidence may appear to them to be necessary for the investigation of any matter in which they or any of the officers subordinate to them are authorised to hold an enquiry, and also to require the production of any document relevant to the matter under enquiry, which may be in the possession or under the control of such person:

Provided that such power shall be exercisable only within the local limits of the jurisdiction of the respective officers.

3. *Term of summons.*—The summons issued by virtue of the powers conferred by section 2 shall be in writing and authenticated by the signature and seal of the officer by whom it is issued. It shall require the person summoned to appear before

2|2305.

the said officer at a stated time and place, and shall specify whether his attendance is required for the purpose of giving evidence, or to produce documents, or for both purposes; and any particular document the production of which is required, shall be described in the summons with reasonable accuracy.

4. *Service of summons.*—The summons shall be served by delivering a copy thereof to the person summoned or to his authorised agent or to some adult male member of his family residing with him who shall be required to sign an acknowledgement of service endorsed on the original summons. If such person refuses to acknowledge service of the summons as aforesaid, or if the person summoned cannot be found and there is no other person on whom the service can be made, the serving officer shall affix a copy of the summons on the outer door of the house in which the person summoned ordinarily resides and return the original with an endorsement attested by two respectable witnesses stating that he has so affixed a copy and the circumstances under which he did so.

5. *Persons summoned to produce documents may send them by third party.*—Any person may be summoned to produce a document, without being summoned to give evidence; and any person summoned merely to produce a document shall be deemed to have complied with the summons if he causes such document to be produced, instead of attending personally to produce the same.

6. *When personal attendance of witnesses may be dispensed with and procedure in such cases.*—When a person whose evidence may be required is unable from sickness, infirmity or other sufficient cause to attend before the officer issuing the summons, or is a person who is exempted from appearance in civil courts or is a woman who according to the custom of her community does not appear in public, the officer issuing the summons may of his own motion or on the application of the party whose evidence is desired, dispense with the appearance of such person, and order such person to be examined by a subordinate deputed by him for the purpose or may himself examine such person at the place where the latter resides.

7. *Travelling and other expenses of persons summoned.*—Subject to such rules as may be made by the Government in this behalf, any person summoned under this Act shall be entitled to his travelling and other expenses.

8. *Examination of witnesses.*—Any Officer making any enquiry referred to in section 2 may examine orally any person supposed to be acquainted with the matter under enquiry or any fact relevant thereto, and may reduce into writing any statement by the person so examined.

Such person shall be bound to answer truly all questions relating to such matter put to him by such officer, other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

Any such statement against a person unless it is taken in his presence and signed by the deponent shall not be used in evidence against him in any judicial proceedings.

9. *Investment of powers on other officers.*—The Government may, by notification in the Gazette, invest any officer deputed by them to make an enquiry into any matter of public interest or into the conduct of any public servant as such, with power to summon any person to appear before such officer or to produce any document or thing in the possession or under the control of such person, the production of which in the opinion of such officer is necessary for the conduct of such enquiry, and thereupon the provisions of sections 3, 4, 5, 6, 7 and 8 shall apply in regard to such enquiry.

10. *Repeal.*—The Acts mentioned in the Schedule as in force in any part of the State of Kerala are hereby repealed.

THE SCHEDULE

1. The Madras Revenue Summonses Act, 1869 (Madras Act III of 1869).
2. The Madras Revenue Enquiries Act, 1893 (Madras Act V of 1893).
3. The Departmental Enquiries Act (Travancore Act VI of 1073).
4. The Travancore-Cochin Revenue Enquiries and Summons Act, 1950 (Travancore-Cochin Act XXX of 1950).

STATEMENT OF OBJECTS AND REASONS

The laws which empower officers to summon witnesses in matters connected with the revenue administration and other matters, in force in the Travancore-Cochin area of the State,

are the Travancore-Cochin Revenue Enquiries and Summons Act, 1950, and the Departmental Enquiries Act (Travancore Act VI of 1073). The corresponding laws in force in the Malabar area of the State are the Madras Revenue Summonses Act, 1869 and the Madras Revenue Enquiries Act, 1893. It is considered necessary to have a uniform law on the subject applicable to the whole of the State of Kerala. The Bill is intended to achieve this purpose.

FINANCIAL MEMORANDUM

Clause 7 of the Bill lays down that subject to such rules as may be made by the Government in this behalf, any person summoned under the Act shall be entitled to his travelling and other expenses.

Under the Travancore-Cochin Revenue Enquiries and Summons Act, 1950, which the Bill seeks to replace, persons summoned are entitled to travelling and other expenses, whereas under the Madras Revenue Summonses Act and the Madras Revenue Enquiries Act, which Acts are also sought to be replaced by the Bill, they are not entitled to such expenses. Therefore, when this Bill is passed and brought into operation, additional expenditure from the Consolidated Fund of the State will be necessary towards payment of travelling and other expenses. It is not now possible to correctly estimate that expenditure since that will depend upon the number of enquiries conducted and the number of witnesses summoned.

K. CHANDRASEKHARAN.